



In re Estate of Angelina Chepkoech Ngacher alias Angeline Chepkoech Ngecher alias Anjelia Chepkoech Ngecher alias Chepkoech Ngacher alias Anjeline Chepkoech Ngacher (Deceased) (Succession Cause 38 of 2014) [2025] KEHC 2879 (KLR) (13 March 2025) (Ruling)

Neutral citation: [2025] KEHC 2879 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERICHO
SUCCESSION CAUSE 38 OF 2014
JK SERGON, J
MARCH 13, 2025**

IN THE MATTER OF THE ESTATE OF ANGELINA CHEPKOECH NGACHER ALIAS ANGELINE CHEPKOECH NGECHER ALIAS ANJELIA CHEPKOECH NGECHER ALIAS CHEPKOECH NGACHER ALIAS ANJELINE CHEPKOECH NGACHER (DECEASED)

BETWEEN

DAVID K. KOSKEI 1ST PETITIONER

LEONARD KIPKURUI NGETICH 2ND PETITIONER

AND

PHILIP KIPKERING RESPONDENT

RULING

1. The application coming up for determination is a summons for revocation of grant dated 8th June, 2018 seeking the following orders;
 - (i) Spent
 - (ii) Spent
 - (iii) Spent
 - (iv) Spent
 - (v) That the grant of letter of administration made on 24th September, 2015 be revoked or annulled.
 - (vi) Spent



- (vii) That the resultant titles from all the land parcels belonging to the deceased, to wit Kericho/Ndubai/1333, Kericho/Ndubai/1334 be cancelled and titles reverted back to the name of the deceased.
 - (viii) THAT the court gives directions that seem fit to grant.
 - (ix) That the costs of this application to be provided for.
2. The application is based on grounds on the face of it and the supporting affidavit of Philip Kipkering Koskei the objector/applicant herein.
 3. He avers that the deceased was his step mother and the certificate of grant to her estate was issued on 24th September, 2015 and further that the said grant was obtained fraudulently and/or by making of false statement by the 1st petitioner/respondent, David K. Koskei.
 4. He avers that he son of the late Tapnyole Susan Ngecher, who was the registered owner of land parcel Kericho/Ndubai/1215, Kericho/Ndubai/1216, Kericho/Ndubai/1217 and Kericho/Ndubai/1218.
 5. He avers that the said Tapnyole Susan Ngecher (now deceased) was his mother and co-wife to the deceased herein, who took out the letters of administration of the estate of his deceased mother without his knowledge and/or information.
 6. He avers that he made an application for revocation of grant to the estate of his late mother Tapnyole Susan Ngecher.
 7. He avers that land parcel Kericho/Ndubai/1293, and Kericho/Ndubai/1294 was as result of consolidation of land parcel Kericho/Ndubai/1215, Kericho/Ndubai/1216, Kericho/Ndubai/1217 and Kericho/Ndubai/1218 as per the confirmed grant made to the estate of Tapnyole Susan Ngecher and further upon the said consolidation the resultant parcel was Kericho/Ndubai/1292.
 8. He avers that subsequent to the consolidation of the said four parcels and in contravention of the grant confirmed on 26th October, 2004, the deceased herein caused the registration of land parcel Kericho/Ndubai/1292 in her name without distributing to the respective beneficiaries, she then subsequently sub-divided into two portions, namely Kericho/Ndubai/1293 and Kericho/Ndubai/1294 and registered both parcels in her name, in disregard of court orders.
 9. He avers that he learnt of these developments when the David K. Kosgei the 1st petitioner herein in the company of a surveyor and police officer came to forcefully subdivide the land parcel that he occupies on 6th June, 2018 and that the 1st petitioner confirmed that he will fence the land in accordance with the sub division and threatened to evict the objector herein.
 10. He avers that should the 1st petitioner carry out the eviction he and other beneficiaries of the estate will lose lifetime developments and be rendered destitute.
 11. He avers that the 1st petitioner's actions are backed by the certificate of grant confirmed on 24th September, 2015.
 12. He avers that the 1st petitioner has failed to properly and diligently administer the estate of the deceased herein.
 13. David K. Kosgei the 1st petitioner herein filed a replying affidavit on behalf of the 2nd petitioner herein.
 14. He avers that he was granted letters of administration in respect of the estate of the deceased herein on 30th July, 2014 and that the letters of administration intestate were confirmed on 24th September, 2015.



15. He avers that the objectors/applicants assertion that the grant was obtained fraudulently and/or by making a false statement is aimed at tainting his reputation.
16. He avers that the objector/applicant's deceased mother Tapnyole Susan Ngecher fraudulently sub divided his late father's original land parcel number Kericho/Ndubai/198 among her sons including the objector without the consent of his late mother Angeline Chepkoech Ngecher or siblings into Kericho/Ndubai/1215, Kericho/Ndubai/1216, Kericho/Ndubai/1217 and Kericho/Ndubai/1218 and registered the said parcels in her name.
17. He avers that when they wanted to apply for letters of administration in respect to the late father's estate, they realised that the objector/applicant's mother had subdivided their father's land. He avers that they instituted a suit and that all titles were surrendered to the land registry in Kericho.
18. He avers that in the process of cancellation of the said titles the objector/applicant's mother passed on and his mother applied for letters of administration intestate and a certificate of confirmation of grant was issued to her on 26th October, 2004 and that the objector applied for revocation of the said grant.
19. He avers that the application for revocation was not allowed and that the court ordered that Kericho/Ndubai/1215, Kericho/Ndubai/1216, Kericho/Ndubai/1217 and Kericho/Ndubai/1218 be consolidated and shared equally between both houses and that due process was followed to obtain the grant in question.
20. He avers that the aforesaid land parcels were consolidated and registered in one number being land parcel Kericho/Ndubai/ 1292 and registered in the name of his late mother the deceased herein.
21. He avers that upon the demise of his late mother he called for a meeting to deliberate on the way forward pertaining to the estate, the objector did not attend.
22. He avers that the application for revocation does not disclose a prima facie case against the duly appointed representatives of the deceased who have administered the estate of the deceased and therefore the objector/applicant is not entitled to the conservatory and/or injunctive orders sought.
23. He avers that the applicant has not clearly established how he stands to suffer irreparable harm in the event this application is dismissed, especially granted that the title of the suit properties are not cancelled and reverted back to the name of the deceased.
24. The matter came up for inter partes hearing, the learned counsel for the petitioner stated that the matter has been pending for a long time and that he would be relying on the replying affidavit whereas the learned counsel for the objector stated that he would be relying on the grounds in the summons for revocation of grant and facts deponed in the supporting affidavit.
25. The petitioner filed submissions which this court has considered, he stated that the petitioner and objector are children of Susan Tapnyole Ngecher and Angelina Chepkoech Ngecher who were married to their deceased father the original owner of subject property to wit the main original land parcel no. Kericho/Ndubai/198 measuring 53 acres.
26. The petitioner stated in the pendency of the succession proceedings, Justice L. Kimaru as he then was, ordered for all the parcels previously subdivided be consolidated then sub divided into two and subsequently a certificate of confirmation of grant dated on 26th October, 2004 which subdivided the property as follows; Angeline Chepkoech Ngecher - 21.5 acres and Susan Tapnyole Ngecher - 31.5 acres and that the deficit was abridged through a further allocation of Molo South Kuresoi Block which measures 10 acres to Angeline Chepkoech Ngecher vide an order of Ongudi J. on 24th September,



2015. The petitioner reiterated that the summons for revocation of grant is unwarranted, the property of the deceased was equally distributed among the two houses.
27. This court finds that the issue(s) for determination are whether to revoke the certificate of grant confirmed on 24th September, 2015 and whether to cancel and revert the titles to the suit property in the name of the deceased.
28. On the issue as to whether to revoke the certificate of grant confirmed on 24th September, 2015, this court having perused the record finds that this court having ordered that Kericho/Ndubai/1215, Kericho/Ndubai/1216, Kericho/Ndubai/1217 and Kericho/Ndubai/1218 be consolidated and shared equally between both houses and the deficit of 10 acres abridged by further award of Molo South Kuresoi Block to Angeline Chepkoech Ngecher vide a court order. It is therefore the finding of this court that the estate of the deceased was equally distributed and that due process was followed to obtain the grant in question. The instant application does not meet the threshold for annulment and/or revocation of grant as set out in section 76 of the *Law of Succession Act*. It is further the finding of this court that the applicant has not aptly demonstrated fraud, concealment of material facts and/or making of false statements in the process culminating in the confirmation of grant. The Applicant/ Objector herein has a duty to prove that the grounds set out in section 76 of the *Law of Succession Act* are adhered to before the grant issued is revoked. In the case of *Albert Imbuga Kisigwa v Recho Kawai Kisigwa, Succession Cause No.158 of 2000 Mwita. J* in his decision noted thus: “Power to revoke a grant is discretionary power that must be exercised judiciously and only on sound grounds. It is not discretion to be exercised whimsically or capriciously. There must be evidence of wrongdoing for the court to invoke section 76 and order to revoke or annul a grant. And when a court is called upon to exercise this discretion, it must take into account interests of the beneficiaries entitled to the deceased’s estate and ensure that the action taken will be for the interests of justice.”
29. On the issue as to whether to cancel and revert the the titles to the suit property in the name of the deceased, this court having ordered that Kericho/Ndubai/1215, Kericho/Ndubai/1216, Kericho/Ndubai/1217 and Kericho/Ndubai/1218 be consolidated and shared equally between both houses and the deficit of 10 acres abridged by further award of Molo South Kuresoi Block to Angeline Chepkoech Ngecher vide a court order, it is the finding of this court that the applicant does not disclose a prima facie case against the duly appointed representatives of the deceased who have administered the estate of the deceased diligent or demonstrated irreparable loss and therefore the objector/applicant herein is not entitled to the conservatory and/or injunctive orders sought.
30. Consequently, the summons for revocation of grant dated 8th June, 2018 lacks merit. It is hereby dismissed with each party bearing its own costs.

**DELIVERED, SIGNED AND DATED AT KERICHO THIS 13TH DAY OF
MARCH, 2025.**

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J.K. SERGON

JUDGE

In the Presence of:-

C/Assistant – Rutoh

No Appearance for the Parties

